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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1945

No. 671

LEE VAN WOODS, PETITIONER,

vs.

WALTER HERRINGTON, WARDEN, ILLINOIS STATE PENITENTIARY, MENARD, ILLINOIS

ON WRIT OF CERTIORARI TO THE CRIMINAL COURT OF COOK COUNTY, STATE OF ILLINOIS

PETITION FOR CERTIORARI FILED SEPTEMBER 15, 1945.

CERTIORARI GRANTED FEBRUARY 25, 1946.

SUPREME COURT OF THE UNITED STATES

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[fol. 1] [Caption omitted]

IN CRIMINAL COURT OF COOK COUNTY

Habeas Corpus No. 29807

THE PEOPLE OF THE STATE OF ILLINOIS ex Rel. LEE VAN WOODS

vs.

WALTER NIERSTHEIMER, Warden, Illinois State Penitentiary, Menard, Illinois

ORDER SETTING PETITION FOR HEARING, ETC.—October 10, 1945

This day come the said Relator by his Counsel and presents his Petition for a Writ of Habeas Corpus together with an Affidavit in Forma Pauperis and Motion in support thereof.

And it is ordered by the Court let the Petition for Writ of Habeas Corpus be filed without Costs, and hearing on issuance of the Writ set before me on the twenty-fourth day of October, A. D. 1945, at 10:00 o'clock, A. M.

And it is further ordered by the Court that Attorney Frank Ferlic, Assistant Public Defender of Cook County, [fol. 2] Illinois, be and he hereby is appointed as a Friend of the Court in this cause; which said Order, Affidavit in Forma Pauperis, Motion and Petition for Writ of Habeas Corpus were filed in the Office of the Clerk of the Criminal Court of Cook County, Illinois, and are in words and figures following, to-wit:

[fol. 3] IN THE CRIMINAL COURT OF COOK COUNTY

[Title omitted]

ORDER FILING PETITION ETC.—Filed October 10, 1945

Let the Petition for Writ of Habeas Corpus be filed without costs, and hearing on issuance of the Writ set before me on the 24 day of October, A. D. 1945, at 10:00 A. M., and let Assistant Public Defender, Frank Ferlic, be appointed as a Friend of the Court in this cause.

Harold G. Ward, Chief Justice of the Criminal Court of Cook County.

[File endorsement omitted.]

[fol. 4] IN THE CRIMINAL COURT OF COOK COUNTY

[Title omitted]

AFFIDAVIT IN FORMA PAUPERIS

Comes now, Lee Van Woods, petitioner in the above entitled cause, and being first duly sworn, on oath, deposes and say-, to wit; that he is petitioner in the above entitled cause, that he verily believes he has a good valid and sufficient cause of action, that he has no money or funds with which to pay the costs or fees to prosecute his cause, that he has no property or other assets with which to pay the said costs and fees; that he verily believes he is entitled to the relief he seeks, the same being a writ of Habeas Corpus to affect his release from his imprisonment, that his foregoing statements are true and correct and that he is ready and willing to verify the same.

Lee Van Woods, Affiant.

Subscribed and sworn to before me on this 6th day of September A. D. 1945. James A. Denny, Notary Public. (Seal.)

[fol. 5] IN THE CRIMINAL COURT OF COOK COUNTY

[Title omitted]

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Comes now, Lee Van Woods, petitioner in the above entitled cause and respectfully moves the Court that because of his poverty that he be permitted to prosecute his cause of action as a poor person, as provided in the laws of Illinois, Ill. Rev. Stat. 1941, Ch. 33, Par. 5, without the payment of costs or fees.

It is further moved that the Court order the usual and necessary process that may be needed to issue, as provided by the laws of Illinois, Ill. Rev. Stat. 1941, Ch. 33, Par. 6, without payment of costs or fees.

Respectfully Submitted, Lee Van Woods, Petitioner, Pro. Se.

Lee Van Woods, Petition Reg. No. 17295, Illinois State Penitentiary, Menard, Illinois.

[fol. 6] IN THE CRIMINAL COURT OF COOK COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS, ex Rel. LEE VAN WOODS, Petitioner

vs.

WALTER NIERSTHEIMER, Warden, Illinois State Penitentiary, Menard, Illinois

PETITION FOR THE WRIT OF HABEAS CORPUS—Filed October 10, 1945

Comes now, Lee Van Woods, petitioner in the above entitled cause, and respectfully represents unto the Court, that:

1. The action arises under the Constitution of the United States, an action to redress the deprivation of his right to due process of law as guaranteed by Section 1 of the Fourteenth Amendment thereto, an action within the jurisdiction of the Court as given by the Constitution of Illinois, Article VI, Section 26; an action within the statutory powers and jurisdiction given to the Court by the Laws of Illinois, Ill. Rev. Stat. 1941, Ch. 37, Par. 166, 167; an action within the provision of Section 2; of the Habeas Corpus Act, Ill. Rev. Stat. 1941, Ch. 65, Par. 2, as an application to a Court of Competent Jurisdiction of the County from which the petitioner was committed.

2. The petitioner is imprisoned in Illinois State Penitentiary at Menard, Illinois, by the respondent Walter Nierstheimer, Warden of the said institution.

3. The cause or pretense of his imprisonment is an order of commitment issue by the Criminal Court of Cook County, Illinois, in the case entitled People v. Woods, Gen. No. 40-463, of said Court wherein the petitioner purportedly [fol. 7] made a free and voluntary confession to the crime of murder, had competent counsel appointed for him, and entered a free and voluntary plea of guilty to the crime of murder and the judgment of the Court sentenced him to the Illinois State Penitentiary for the term of 99 years. Copy of the said order hereto attached, marked Exhibit "A" reference made a part hereof.

4. The true and correct facts *regarding the petitioner free and voluntary confession, the appointment of competent counsel for the petitioner and his free and voluntary plea of guilty, and his arrest is as follows:*

That on or about March 8 or 9, 1940, the Chicago Police came to the petitioner place of residence and put the petitioner under arrest. The police took the petitioner into his bed-room and put revolver to the petitioner head, beating the petitioner and telling the petitioner if he moved they the police would blow his brains out. In answer to the petitioner inquiries as to why he was being treated that way, they the Police, then accused the petitioner of the crime of murder, the police kept asking him what he did with the gun.

A search was made of the petitioner room and several guns were found which belonged to the petitioner. Upon the finding of the guns the police began beating the petitioner trying to make him confess, this the petitioner refused to do, then the petitioner was told that he would confess before they the police got through with him.

The petitioner was taking from his residence and put into a police car and was taken to the police station, while on the way there, the police put lighted cigarettes in petitioner face, demanding from him "Are you going to talk nigger." The police in charge of the officers who was later learned by the petitioner, to be a Sergeant Bob Hornett. The petitioner arrived at the station, name and location unknown, about 12:00 noon, the petitioner was [fol. 8] steadily questioned and beatin until 7:30 P. M. being told that he killed him and that the petitioner better confess, when it was learned that the petition would not confess, the petitioner was put into a cell and as often as he tried to recuperate from the beatings the petitioner was called for more questioning.

The following morning the petifioner was given a cup of coffee and a doughnut and was told that he would not get anything more to eat nor any tobbacco until the petitioner confessed. The petitioner was beatgn some more at this station and then taken the 48th Street Station, where he was again beaten and questioned until about 2:00 P. M. At all times the petitioner protested his innocence of the charges which the police were trying to make him confess too.

Sometime that afternoon the petitioner was taken to the Stanton Avenue Station where the police took him in the basement and handcuffed the petitioner to a pipe on the ceiling, beated the petitioner with blackjacks, clubs and hands. The officer in charge of the police at the time of the arrest, was Sergeant Bob Hornett, also this Sergeant Hornett was there most of the time supervising the treatment. The questioning and beatings was continued for two days then the petitioner was taken and put in a line up for identification. Witnesses were brought and upon the insistence of the police that the petitioner was the man and upon the petitioner pleas to one witness that this witness be fair this witness said he did not know for sure but that the petitioner might be the man.

Then the petitioner was taken to the office of the station where a person in civilian clothes questioned him, the petitioner at all times protested his innocence. The petitioner was taken out of this office and while the petitioner was leaving he heard this person tell the police to get a confession.

[fol. 9] About the fourth day after petitioner arrest he was taken the the States Attorneys office at 26th Street and California when the petitioner was told to sign some papers. The petitioner was attempting to read these papers, when Sergeant Hornett began beatings again telling the petitioner to sign them or he would finish the job of killing the petitioner. The petitioner could not stand any more beatings so the petitioner signed the papers which later learned was a confession.

The petitioner was then taken before a judge and bound over to the grand jury.

On March 14, 1940, the grand jury returned the indictment, Gen. No. 40-463, charging the petitioner with the murder of Stephen Broscoe on March 6, 1940, George Jones being impleaded with the petitioner. On March 15, 1940, the petitioner was taken before the Chief Justice of the Criminal Court, Judge John Prystalski; who appointed the Public Defender as counsel for the petitioner in the trial of the cause and assigned the cause to Judge William J. Lindsay. The petitioner was then returned to the County Jail, the Public Defender never came to consult with the petitioner in regards to the facts of the crime charged against the petitioner.

On May 20, 1940, the petitioner was taken to the Court room bull-pen to await his trial while there a colored man came to see the petitioner telling him that he was the petitioner lawyer and had been appointed to defend the petitioner. The petitioner was told by this lawyer that everything was fixed. The counsel would not listen to the facts and matters concerning the treatment the petitioner received by the police, the counsel kept saying that the petitioner should let him handle it as he was a lawyer and knew what he was doing and that he the lawyer would handle everything.

From the evidence given at the trial the petitioner first learned that he was supposed to have shot Stephen Broscoe [fol. 10] about 6:35 P. M. the night of March 6, 1940. The petitioner tried to tell the judge that the petitioner did not know anything of the crime, but the petitioner counsel pulled him back into his seat and told the petitioner that he had pleaded guilty, that if the petitioner did not keep his mouth shut he would go to the electric chair, the States attorney also saying if the petitioner don't keep his mouth shut he will burn. At no time did the petitioner counsel object to the proceedings in the Court, examine the witnesses, nor put forth any evidence for the petitioner defense, at the close of the States evidence, the Petitioner counsel told the Court, that the petitioner was guilty and, should receive a prison sentence which should keep the petitioner in prison for the rest of petitioner life, a sentence of ninety-nine (99) years being imposed on May 21, 1940.

At the time of the crime which the petitioner was charged with the petitioner could have proven that he was at a friend house from where he went to his own place of residence at 4733 Michigan Ave., Chicago, Illinois, here the petitioner played cards with others and from there the petitioner called up other friends. This was told to the counsel on the day of the petitioner trial, but petitioner lawyer said due to the confession which was signed in the States Attorneys office, he the counsel could not get the witnesses and the only a plea of guilty could be had under the circumstances. At no time did the petitioner authorized the Public Defender to enter a plea of guilty or enter such a plea himself, at all times the petitioner pleaded not guilty and protested his innocence of the crime charged.

At the time of the trial the petitioner was a pauper without sufficient funds or means to employ counsel to

defend him and was under the circumstances compelled to accept the service of the Public Defender; The petitioner [fol. 11] was twenty-two years of age and a public school graduate without any legal knowledge, and was a user of marijuana which left the petitioner sick and nervous and living in a world of fog and after the petitioner was in prison a long time which is five years, Legal knowledge was made available.

The petitioner have study for the last nine months and have learned that he had been deprived of his rights by the officers of the Court.

(A)

The purported free and voluntary confession which was obtained from him was obtained by the use of copious beatings by the Chicago Police which intimidated and coerced him into signing the confession after he had lost his powers of physical and mental resistance.

(B)

The Public Defender of Cook County, Illinois, who had been appointed to represent him because of his poverty, did not consult with him in regards to the facts of the case at no time prior to the date of the trial, and when told the facts by which the confession had been obtained refused to consider them, telling the petitioner herein that he was guilty, that no defense could be had because of the confession, that a plea of guilty was the only plea he could enter under the circumstances and that he was going to withdraw the petitioner plea of not guilty and enter a plea of guilty.

(C)

The petitioner's plea of not guilty was withdrawn and a plead of guilty entered over his protests and when he attempted to tell the Court of the actions taken the States Attorney and Public Defender both threatened him with a sentence to the electric chair if he did not maintain his silence.

[fol. 12] 5. That the order of judgment entered by the Criminal Court of Cook County, Illinois, as set forth in paragraph 3, is not an order of a Court of competent jurisdiction because of the following matters.

(A)

The use of duress, intimidation and coercion to obtain the confession of the petitioner to the crime he was charged with was without due process of law, or any process of law, in violation of his right as guaranteed by the Constitution of the United States and particularly by Section 1 of the Fourteenth Amendment thereto, which he here and now pleads and relies upon to obtain redress for the wrong done him.

(B)

The actions of the Public Defender, in failing to consult with the petitioner prior to the trial to prepare a defense and put the true facts before the Court deprived him of his right to the assistance of competent counsel and the usual and accustomed incidenticals of consultation and preparation without due process of law, or any process of law in violation of his right as guaranteed by the Constitution of the United States and particularly by Section 1 of the Fourteenth Amendment thereto, which he here and now pleads and relies upon to obtain redress for the wrong done him.

(C)

The *actions of the officers of the Court* in withdrawing the petitioner plea *of not guilty and entering a plea of guilty* over his protests, and *subsequently using duress*, intimidation and coercion to cause him to maintain *his silence*, deprived him of his right to a fair and impartial trial *without due* process of law, or any process of law in violation of his *right* as guaranteed by the Constitution of the United States, and *particularly* Section 1 of the Fourteenth Amendment thereto, which he here *and now* pleads and relies upon to obtain redress for the wrong done him.

[fol. 13] 6. That the said respondent hold illegally in custody said petitioner under the said void, null and unconstitutional order, set forth in paragraph 3, and therefore said petitioner is entitled to his discharge from custody under said order.

7. That the said order is not an order, process, judgment or decree specified in Section 21 of the Habeas Corpus Act, Ill. Rev. Stat. 1941, Ch. 65, par. 21.

8. To be released from which said imprisonment your petitioner now applies, praying that a writ of habeas corpus, to be directed to the said Walter Nierstheimer, Warden, Illinois State Penitentiary at Menard, Illinois, may issue in this behalf pursuant to the statutes in such case made and provided, so that your petitioner may be forthwith brought before this Court to do submit to and receive what the Constitution of the United States may require in that behalf.

Respectfully Submitted, Lee Van Woods, Petitioner Pro Se.

[fol. 14] *Duly sworn to by Lee Van Woods. Jurat omitted in printing.*

[File endorsement omitted.]

[fols. 15-16] EXHIBIT "A" TO PETITION

Penitentiary Mittimus.—Criminal Court of Cook County.

Form 43A

UNITED STATES OF AMERICA

STATE OF ILLINOIS,
County of Cook, ss:

Pleas, before a Branch of the Criminal Court of Cook County, in said County and State, at a term thereof begun and held at the Criminal Court House, in the City of Chicago, in said County, on the first Monday (being the sixth day) of May, in the year of our Lord one thousand nine hundred and forty and of the Independence of the United States the one hundred and sixty fourth.

Present: Honorable William J. Lindsay, Judge of the Superior Court of Cook County and Ex-Officio Judge of the Criminal Court of Cook County.

Thomas J. Courtney, State's Attorney. Thomas J. O'Brien, Sheriff of Cook County.

Attest: Thomas J. Bowler, Clerk.

Be It Remembered, to-wit: On the twenty first day of May in the year last aforesaid, it being the term of Court

aforesaid, the following, among other proceedings, were had and entered of record in said Court, which said proceedings are in the words and figures following, to-wit:

No. 40-463

THE PEOPLE OF THE STATE OF ILLINOIS,

vs.

LEE VAN WOODS (Impleaded)

INDICTMENT FOR MURDER

This day come the said People, by Thomas J. Courtney, State's Attorney, and the said Defendant as well in his own proper person as by his Counsel also comes, and now neither the said Defendant nor his Counsel for him saying anything further why the judgment of the Court should not now be pronounced against him on the plea and judgment of guilty, heretofore renedred to the indictment in this cause.

Therefore, it is considered, ordered and adjudged by the Court that the said Defendant Lee Van Woods is guilty of the said crime of Murder in manner and form as charged in the indictment in this cause, and the said plea and judgment of guilty, and that he be and is hereby sentenced to confinement at hard labor in the Illinois State Penitentiary for said crime of Murder in manner and form as charged in the indictment whereof he stands convicted and adjudged guilty, for the term of ninety-nine (99) years from and after the delivery of the body of said Defendant Lee Van Woods to the Illinois State Penitentiary and that the said Defendant Lee Van Woods be taken from the bar of the Court to the Common Jail of Cook County, from whence he came and from thence by the Sheriff of Cook County to the Department of Public Welfare and the said Department of Public Welfare is hereby required and commanded to take the body of the said Defendant Lee Van Woods and confine him in said Penitentiary, in safe and secure custody, for and during the term of ninety-nine (99) years from and after the delivery thereof, at hard labor, and that he be thereafter discharged.

It Is Further Ordered that the said Defendant pay all the costs of these proceedings, and that execution issue therefor.

STATE OF ILLINOIS,
County of Cook, ss:

I, Thomas J. Bowler, Clerk of the Criminal Court of Cook County, in said County and State, do hereby certify the above and foregoing to be a true, perfect and complete copy of an order entered of Record in said Court, in the Case of The People of the State of Illinois, versus Lee Van Woods.

Witness, Thomas J. Bowler, Clerk of said Court, and the Seal thereof, at Chicago, in said County, this twenty second day of May A. D., 1940.

To the Sheriff of Cook County to Execute.

Thomas J. Bowler, Clerk. (Seal.)

[fol. 17] IN THE CRIMINAL COURT OF COOK COUNTY

[Title omitted]

MOTION TO DISMISS—Filed October 24, 1945

Now comes Walter Niersteheimer, Warden of the Illinois State Penitentiary, Menard, Illinois, respondent herein, by George F. Barrett, Attorney General of the State of Illinois, and William J. Tuohy, State's Attorney of Cook County, Illinois, his attorneys, and moves the Court to dismiss the petition for a Writ of Habeas Corpus, heretofore issued herein, for failing to state a cause of action on the face of said petition, and alleges:

That it appears upon the face of said petition that the relator, Lee Van Woods, is in his custody by and under the authority of a judgment of conviction rendered by the Criminal Court of Cook County, Illinois; that said judgment has not been satisfied; that when the Criminal Court of Cook County rendered judgment against the relator it had full jurisdiction of the subject matter of said cause, of the person of the relator and power to render the judg-
[fol. 18] ment it did render against the relator.

Wherefore, this respondent prays that the said petition be dismissed.

Walter Nierstheimer, Warden of the Illinois State Penitentiary, Menard, Illinois, by George F. Barrett, Attorney General of the State of Illinois, by William J. Tuohy, State's Attorney of Cook County, James V. Cunningham, Assistant State's Attorney.

[File endorsement omitted.]

[fol. 19] In Criminal Court of Cook County

Order Dismissing Petition—October 24, 1945

And the Court hearing Counsel for said Respondent in support of said motion as well as in opposition thereto and being fully advised in the premises, doth sustain said motion and orders that the Petition in this cause be and the same is hereby dismissed out of this Court.

[fol. 20] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 21] Judge's and Clerk's Certificate omitted in printing.

[fol. 22] Supreme Court of the United States

Order Granting Motion for Leave to Proceed in Forma Pauperis—February 25, 1946

On consideration of the motion for leave to proceed *in forma pauperis* in this case.

It is ordered by this Court that the said motion be, and the same is hereby, granted.

Mr. Justice Jackson took no part in the consideration or decision of this motion.

[fol. 23] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed February 25, 1946

The petition herein for a writ of certiorari to the Criminal Court of Cook County, State of Illinois, is granted and the case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Jackson took no part in the consideration or decision of this application.

Endorsed on Cover: Enter petitioner pro se. In forma pauperis. File No. 50,374. Illinois, Criminal Court, Cook County. Term No. 671. Lee Van Woods, Petitioner, vs. Walter Nierstheimer, Warden, Illinois State Penitentiary, Menard, Illinois. Petition for a writ of certiorari and exhibit thereto. Filed December 15, 1945. Term No. 671 O. T. 1945.